

BINGHAM McCUTCHEN LLP
BETH H. PARKER (SBN 104773)
beth.parker@bingham.com
MONTY AGARWAL (SBN 191568)
monty.agarwal@bingham.com
JUDITH S. H. HOM (SBN 203482)
judith.hom@bingham.com
CHI SOO KIM (SBN 232346)
chisoo.kim@bingham.com
THOMAS S. CLIFFORD (SBN 233394)
tom.clifford@bingham.com
Three Embarcadero Center
San Francisco, California 94111-4067
Telephone: (415) 393-2000
Facsimile: (415) 393-2286

Attorneys for Defendants
Seoul Semiconductor Co., Ltd. and
Seoul Semiconductor, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Nichia Corporation,
Plaintiff,
v.
Seoul Semiconductor Co., Ltd., Seoul
Semiconductor, Inc.,
Defendants.

No. 3:06-CV-0162 (MMC)

DECLARATION OF CHI SOO KIM IN
SUPPORT OF SEOUL
SEMICONDUCTOR DEFENDANTS'
MOTION FOR CLAIM
CONSTRUCTION AND FOR
SUMMARY JUDGMENT

Date: July 27, 2007
Time: 9:00 a.m.
Place: Courtroom 7, 19th Floor
Judge: Hon. Maxine M. Chesney

REDACTED VERSION
ORIGINAL SUBMITTED UNDER SEAL

I, Chi Soo Kim, declare as follows:

1. I am a member of the State Bar of California and an attorney at Bingham McCutchen LLP, counsel of record for defendants Seoul Semiconductor Co., Ltd., and Seoul Semiconductor, Inc. (collectively, "Seoul") in this action. I have personal, firsthand knowledge of the matters stated in this declaration. If called and sworn as a witness, I could and would competently testify to such matters. I make this Declaration in support of Seoul's Motion for Summary Judgment.

2. Attached as Exhibit "A" is a list of all the deponents cited by Seoul in its Motion for Summary Judgment. For ease of reference, the excerpted deposition transcripts are organized alphabetically by deponent. All references to exhibits to the Kim Declaration use the abbreviations of the deponent's name in Exhibit A.

3. Attached as Exhibit "B" is a true and correct copy of Plaintiff Nichia Corporation's Responses to Defendant Seoul Semiconductor, Inc. and Seoul Semiconductor, Co., Ltd.'s Second Set of Request for Admission (Dated March 2, 2007), which were served on April 2, 2007. [Confidential Exhibit Partially Filed Under Seal]

4. Attached as Exhibit "C" is a true and correct copy of excerpts of the transcript of the deposition of Daniel Doxee held on March 14, 2007, at the offices of Bingham McCutchen LLP, located in San Francisco, California. [Confidential Exhibit Entirely Filed Under Seal]

5. Attached as Exhibit "D" is a true and correct copy of excerpts of the transcript of the deposition of Richard A. Flasck, held on May 31, 2007, at the offices of Foley & Lardner LLP, located in San Francisco, California.

6. Attached as Exhibit "E" is a true and correct copy of excerpts of the transcript of the deposition of Sang Bae Han, held on May 8-9, 2007, at the offices of Bingham McCutchen LLP, located in San Francisco, California. [Confidential Exhibit Partially Filed Under Seal]

1 7. Attached as Exhibit “F” is a true and correct copy of the document entitled
2 “.8mm Side Light Emitting SMD Material for DR2” which was introduced as Exhibit 310 in the
3 deposition of Hiroshi Tominaga. [Confidential Exhibit Entirely Filed Under Seal]

4 8. Attached as Exhibit “G” is a true and correct copy of excerpts of the
5 transcript of the deposition of Masashi Ishida, held on April 12-13, 2007, at the offices of Foley
6 & Lardner LLP, located in San Francisco, California. [Confidential Exhibit Entirely Filed Under
7 Seal]

8 9. Attached as Exhibit “H” is a true and correct copy of excerpts of the
9 transcript of the deposition Jamie Jun, held on April 6, 2007, at the offices of Foley & Lardner
10 LLP, located in San Francisco, California.

11 10. Attached as Exhibit “I” is a true and correct copy of excerpts of the
12 transcript of the deposition Bang Gun Kim, held on March 30, 2007, at the offices of Bingham
13 McCutchen LLP, located in San Francisco, California.

14 11. Attached as Exhibit “J” is a true and correct copy of excerpts of the
15 transcript of the deposition Byeong Kook Kim, held on April 4-5, 2007, at the offices of Foley &
16 Lardner LLP, located in San Francisco, California. [Confidential Exhibit Partially Filed Under
17 Seal]

18 12. Attached as Exhibit “K” is a true and correct copy of excerpts of the
19 transcript of the deposition Jeong Ju Kim, held on April 11, 2007, at the offices of Shin & Kim,
20 located in Seoul, Korea.

21 13. Attached as Exhibit “L” is a true and correct copy of excerpts of the
22 transcript of the deposition Jung Wook Kim, held on April 27-28, 2007, at the offices of Foley &
23 Lardner LLP, located in San Francisco, California. [Confidential Exhibit Partially Filed Under
24 Seal]

25 14. Attached as Exhibit “M” is a true and correct copy of excerpts of the
26 transcript of the deposition of Akihito Kishi held on March 22-23, 2007, at the offices of

1 Bingham McCutchen LLP, located in San Francisco, California. [Confidential Exhibit Partially
2 Filed Under Seal]

3 15. Attached as Exhibit “N” is a true and correct copy of excerpts of the
4 transcript of the deposition of Dong-Hwan Lee held on June 1, 2007, at the offices of Shin &
5 Declaration, located in Seoul, Korea. [Confidential Exhibit Entirely Filed Under Seal]

6 16. Attached as Exhibit “O” is a true and correct copy of excerpts of the
7 transcript of the deposition of Hidehiko Naete, held on March 23, 2007, at the offices of
8 Carlsmith Ball LLP, located in Hagatna, Guam. [Confidential Exhibit Entirely Filed Under Seal]

9 17. Attached as Exhibit “P” is a true and correct copy of excerpts of the
10 transcript of the deposition of Akira Onikiri, held on March 22, 2007, at the offices of Carlsmith
11 Ball LLP, located in Hagatna, Guam. [Confidential Exhibit Entirely Filed Under Seal]

12 18. Attached as Exhibit “Q” is a true and correct copy of excerpts of the
13 transcript of the deposition of Takashi Sakamoto, held on April 26-27, 2007, at the offices of
14 Bingham McCutchen LLP, located in San Francisco, California, and Washington, D.C.
15 [Confidential Exhibit Entirely Filed Under Seal]

16 19. Attached as Exhibit “R” is a true and correct copy of excerpts of the
17 transcript of the deposition of E. Fred Schubert, held on June 8, 2007, at the offices of Bingham
18 McCutchen LLP, located in Washington, D.C. [Confidential Exhibit Entirely Filed Under Seal]

19 20. Attached as Exhibit “S” is a true and correct copy of excerpts of the
20 transcript of the deposition of Randolph Smith, held on March 13, 2007, at the offices of
21 Bingham McCutchen, located in Washington, D.C. [Confidential Exhibit Entirely Filed Under
22 Seal]

23 21. Attached as Exhibit “T” is a true and correct copy of excerpts of the
24 transcript of the deposition of Hiroshi Tominaga, held on April 5-6, 2007, at the offices of
25 Bingham McCutchen LLP, located in San Francisco, California. [Confidential Exhibit Entirely
26 Filed Under Seal]

22. Attached as Exhibit “U” is a true and correct copy of excerpts of the transcript of the deposition of Cooper C. Woodring, held on May 30, 2007, at the offices of Bingham McCutchen LLP, located in Washington, D.C. [Confidential Exhibit Entirely Filed Under Seal]

23. Attached as Exhibit “V” is a true and correct copy of a document entitled “Side View .75” which was introduced as Exhibit 135 in the deposition of Sang Min Lee. [Confidential Exhibit Entirely Filed Under Seal]

24. Attached as Exhibit “W” is a true and correct copy of excerpts of the “Expert Report of Dr. E. Fred Schubert Regarding Infringement of the Nichia Design Patents,” served May 6, 2007, which were introduced as Exhibit 277 in the deposition of Dr. E. Fred Schubert. [Confidential Exhibit Entirely Filed Under Seal]

25. Attached as Exhibit “X” is a true and correct copy of Seoul’s chart of 902 customers, erroneously bates labeled SSC00027472 for the entire document, which was introduced as Exhibit 505 in the deposition of Jeong Soo Lee . [Confidential Exhibit Entirely Filed Under Seal]

26. Attached as Exhibit “Y” is a true and correct copies of Nichia’s U.S. design patents at issue (D491,538; D490,784; D503,388; D499,385) which were introduced as Exhibits 11, 13, 17, and 18 in the deposition of Randy Smith.

27. Attached as Exhibit “Z” is a true and correct copies the document at issue document entitled “Demand to cease and desist the infringement of design right,” with the bates range NC00011733 - NC00011735 and NC00011679 - NC00011682, which were introduced as Exhibits 142 and 143 in the deposition of Sang Min Lee. [Confidential Exhibit Entirely Filed Under Seal]

28. Attached as Exhibit “AA” is a true and correct copy of excerpts of the document entitled “Namotek: Investor Relations 2005: Presentation Mobile Display Component,” which were introduced as Exhibits 601 in the deposition of Sang Bae Han.

29. Attached as Exhibit “BB” is a true and correct copy of the document entitled “Specification: Chip LED Device SSC-HWTS902,” which was introduced as Exhibit 75 in the deposition of Sang Bae Han.

30. Attached as Exhibit “CC” is a true and correct copy of the document entitled “Exemplary Products Sold In U.S. Using Infringing Seoul Semiconductor LEDs,” with the bates range NC00079715 - NC00079716 which was introduced as Exhibit 451 in the deposition of Takashi Sakamoto. [Confidential Exhibit Entirely Filed Under Seal]

31. Attached as Exhibit “DD” is a true and correct copy of the document entitled “Commercial Invoice,” with the bates number SDI000089 was were introduced as Exhibit 802 in the deposition of Dong-Hwan Lee. [Confidential Exhibit Entirely Filed Under Seal] [Marked as such by Samsung SDI]

32. Attached as Exhibit “EE” is a true and correct copy of excerpts of the document entitled “Daily Report 2001 part 2,” with the bates numbers NC00015482, NC00015497, and NC00015499 which were introduced as Exhibit 260 in the deposition of Masashi Ishida. [Confidential Exhibit Entirely Filed Under Seal]

33. Attached as Exhibit “FF” is a true and correct copy of excerpts of the document entitled “Daily Report 2001 part 2,” with the bates numbers NC00015436, NC00015463-NC00015464 which were introduced as Exhibit 259 in the deposition of Masashi Ishida. [Confidential Exhibit Entirely Filed Under Seal]

34. Attached as Exhibit “GG” is a true and correct copy of excerpts of the document entitled “Product Evaluation Items Table for NSCWS335,” with the bates numbers NC00017683-NC00017684 which were introduced as Exhibit 270 in the deposition of Masashi Ishida. [Confidential Exhibit Entirely Filed Under Seal]

35. Attached as Exhibit “HH” is a true and correct copy of the document entitled “Regarding the Change of Shape of the End Terminals,” with the bates numbers

1 NC00043555-NC00043556 which was introduced as Exhibit 78 in the deposition of Akihito
2 Kishi. [Confidential Exhibit Entirely Filed Under Seal]

3 36. Attached as Exhibit “II” is a true and correct copy of excerpts of the
4 document entitled “Confirmation of product demand items,” with the bates numbers
5 NC00020417-NC00020418 which were introduced as Exhibit 311 in the deposition of Hiroyoshi
6 Tominaga. [Confidential Exhibit Entirely Filed Under Seal]

7 37. Attached as Exhibit “JJ” is a true and correct copy of excerpts of the
8 Patent Prosecution History for D491,538 with the bates numbers NC000000014, NC000000106-
9 NC000000137 which were introduced as Exhibit 22 in the deposition of Randy Smith.

10 38. Attached as Exhibit “KK” is a true and correct copy of the document
11 entitled “Specifications For Nichia Chip Type White LED Model: NSCW335T” which was
12 introduced as Exhibit 45 in the deposition of Randy Smith.

13 39. Attached as Exhibit “LL” is a true and correct copy of excerpts from the
14 document entitled “Report of Richard A. Flasck Pursuant to Fed. R. Civ. Proc. 26(a)(2) with the
15 following page numbers 27-28, 31, 33-35, 45, 49, 60.” [Confidential Exhibit Entirely Filed
16 Under Seal]

17 40. Attached as Exhibit “MM” is a true and correct copy of an email
18 document from April 17, 2003 entitled “Re: NSCW008,” with the bates range NC00071874 that
19 was produced in this action. [Confidential Exhibit Entirely Filed Under Seal]

20 41. Attached as Exhibit “NN” is a true and correct copy of excerpts from the
21 document entitled “Expert Report of Cooper C. Woodring on Validity of US Design Patents
22 D490,784, D491,538, D499,385 And D503,388.” [Confidential Exhibit Entirely Filed Under
23 Seal]

24 42. Attached as Exhibit “OO” is a true and correct copy of excerpts of the
25 document entitled “0.8 mm side light emitting SMD (NSCWS335) with the bates numbers
26

1 NC00016247-NC00016248, NC00016252, NC00016256, which were introduced as Exhibit 313
2 in the deposition of Hiroyoshi Tominaga. [Confidential Exhibit Entirely Filed Under Seal]

3 43. Attached as Exhibit "PP" is a true and correct copy of the document
4 entitled "Defendant Seoul Semiconductor's Notice of Deposition Pursuant to Fed. R. Civ. P.
5 30(b)(6)" which was introduced as Exhibit 300 in the deposition of Hiroyoshi Tominaga.

6 44. Attached as Exhibit "QQ" is a true and correct copy of the document
7 entitled "Specification: SWTS902" which was introduced as Exhibit 160 in the deposition of
8 Bang Gun Kim.

9
10 I declare under penalty of perjury that the foregoing is true and correct and that
11 this declaration was executed on June 15, 2007 at San Francisco, California.

12
13
14 /s/ Chi Soo Kim
Chi Soo Kim